

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re)	
)	Case No: 19-02176
Marilyn L. Gordon,)	
aka Marilyn Gordon-McCalla,)	Chapter: 13
Debtor.)	Judge: Hon. Deborah L. Thorne

NOTICE OF MOTION

TO: See attached service list

PLEASE TAKE NOTICE that on **May 26, 2021** at **1:30 P.M.** or soon thereafter as I may be heard, I shall appear before the Honorable Deborah L. Thorne, or any judge sitting in that judge's place, and present the motion of Nissan Motor Acceptance Corporation ("Movant"), to Modify the Automatic Stay, a copy of which is attached.

This motion will be presented and heard electronically using Zoom for Government. No personal appearance in court is necessary or permitted. To appear and be heard on the motion, you must do the following:

To appear by video, use this link: <https://www.zoomgov.com/>. Then enter the meeting ID and password.

To appear by telephone, call Zoom for Government at 1-669-254-5252 or 1-646-828-7666. Then enter the meeting ID and password.

Meeting ID and password. The meeting ID for this hearing is **160 9362 1728** and no password is required. The meeting ID and password can also be found on the judge's page on the court's web site.

If you object to this motion and want it called on the presentment date above, you must file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may grant the motion in advance without a hearing.

BONIAL & ASSOCIATES, P.C.

/s/ Wesley T. Kozeny
Wesley T. Kozeny / # 6199471
12400 Olive Blvd, Suite 555
St. Louis, Missouri 63141
Phone: (314) 991-0255
Fax: (314) 991-6755
ILBK@BonialPC.com
Attorney for Nissan Motor Acceptance Corporation

CERTIFICATE OF SERVICE

I hereby certify that a copy of this notice and the attached motion was served on each entity shown on the attached list at the address shown and by the method indicated on the list on April 28, 2021.

Respectfully Submitted

/s/ Wesley T. Kozeny

Wesley T. Kozeny

Service List:

Debtor's Attorney

David M. Siegel
David M. Siegel & Associates
790 Chaddick Dr
Wheeling, IL 60090-6005

via Electronic Notice via CM/ECF

Chapter 13 Trustee

Marilyn O. Marshall
224 South Michigan Ste 800
Chicago, Illinois 60604

via Electronic Notice via CM/ECF

US Trustee

Office of the U.S.Trustee
219 S. Dearborn St., Room 873
Chicago, Illinois 60604

via Electronic Notice via CM/ECF

Debtor

Marilyn L. Gordon
7341 S Albany Ave
Chicago, IL 60629-3038

via U.S. Mail

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Marilyn L. Gordon,)	
aka Marilyn Gordon-McCalla,)	Chapter: 13
Debtor(s).)	
)	Judge: Hon. Deborah L. Thorne
)	

MOTION FOR RELIEF FROM AUTOMATIC STAY

COMES NOW Nissan Motor Acceptance Corporation, its subsidiaries, affiliates, predecessors in interest, successors and/or assigns ("Movant"), through the undersigned counsel, pursuant to Federal Rules of Bankruptcy Procedure 4001 and 9014, and states as follows in support of its Motion herein:

*REQUIRED STATEMENT (Form G-4) IS ANNEXED HERETO AND FILED
HEREWITH AS REQUIRED BY LOCAL RULE 4001-1*

1. On January 25, 2019, the Debtor, above-named, filed a voluntary petition in Bankruptcy under Title 11, Chapter 13, U.S.C., in the United States Bankruptcy Court, for the Northern District of Illinois.

2. The Court has jurisdiction over this matter pursuant to 28 U.S.C. Sections 151, 157 and 1334 and applicable local rules. This is a core proceeding pursuant to 28 U.S.C. Section 157(b)(2). Venue is proper in this District under 28 U.S.C. Section 1409(a).

3. The Debtor, Marilyn L. Gordon, ("Obligor(s)") is indebted to Movant pursuant to a Retail Installment Contract (the "Debt Obligation"). A copy of the Debt

Obligation is attached hereto and incorporated herein as Exhibit A. Movant is entitled to enforce the Debt Obligation.

4. As security for repayment of the Debt Obligation the Obligor(s) have pledged certain collateral described as 2016 Nissan Altima, VIN: 1N4AL3AP4GC199691 ("Collateral"). A copy of the proof of perfection of Movant's interest is in the Collateral ("Security Interest") is attached hereto and incorporated herein as Exhibit B.

5. All rights and remedies under the Debt Obligation and Security Interest have been assigned to the Movant by the terms of the Debt Obligation itself.

6. As of April 25, 2021, the outstanding indebtedness owed to Movant less any partial payments or suspense balance is \$20,010.51.

7. As of April 25, 2021, the value of the Collateral is \$13,475.00. The basis for this value is NADA estimate of value. A copy of said valuation is attached hereto as Exhibit C.

8. Movant's Claim is paid through the Chapter 13 Trustee pursuant to the terms of the confirmed Plan. Upon information and belief based upon NDC Data as of 4/22/2021, the Debtor is presently 3.98 payments behind in Plan payments which is equivalent to \$2,191.08. The absence of equity in the Collateral coupled with the Debtor's failure to pay per the confirmed Plan deprives Movant of adequate protection.

9. Cause exists for relief from the automatic stay under 11 U.S.C. §362(d) for the following reasons:

- a. 11 U.S.C. §362(d)(1) - For cause in that payments required to be made by Obligors to Movant are not being made as required by the terms of the confirmed Plan.
- b. 11 U.S.C. §362(d)(2)(A) & (B) - Debtor enjoys no equity in the

Collateral and the Collateral is not necessary for an effective reorganization.

WHEREFORE, Movant prays that this Court issue an Order:

1. Terminating or modifying the stay imposed by 11 U.S.C. 362(a) allowing Movant (and any successors or assigns) to proceed under applicable non-bankruptcy law to enforce its remedies in and to the Collateral.
2. That the Order be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code.
3. That the 14-day stay described by Bankruptcy Rule 4001(a)(3) be waived.
4. For such other relief as the Court deems proper.

Dated: April 28, 2021

BONIAL & ASSOCIATES, P.C.

/s/ Wesley T. Kozeny

Wesley T. Kozeny / # 6199471

12400 Olive Blvd, Suite 555

St. Louis, Missouri 63141

Phone: (314) 991-0255

Fax: (314) 991-6755

ILBK@BonialPC.com

Attorney for Nissan Motor Acceptance Corporation

Form G-4

**REQUIRED STATEMENT
TO ACCOMPANY MOTIONS FOR RELIEF FROM STAY**

Debtor(s) Marilyn L. Gordon Case No. 19-02176 Chapter 13

Moving Creditor Nissan Motor Acceptance Corporation Date Case Filed 01/25/2019

Nature of Relief Sought ☒ Lift Stay ☐ Annual Stay ☐ Other (describe) _____

Date of Confirmation Hearing _____ or Date Plan Confirmed 04/24/2019

1. Collateral
 - a. ☐ Home
 - b. ☒ Car Year, Make Model 2016 Nissan Altima, VIN: 1N4AL3AP4GC199691
 - c. ☐ Other (describe) _____
2. Balance Owed as of Petition Date \$26,239.16
Total of all other Liens against Collateral _____
3. In chapter 13 cases, if a post-petition default is asserted in the motion, attach a payment history listing the amounts and dates of all payments received from the debtor(s) post-petition.
4. Estimated Value of Collateral (must be supplied in *all* cases) \$13,475.00
5. Default
 - a. ☐ Pre-Petition Default
Number of months _____ Amount: _____
 - b. ☒ Post-Petition Default
Number of months _____ Amount: _____
 - i. ☐ On direct payments to the moving creditor
Number of months _____ Amount: _____
 - ii. ☒ On payments to the Standing Chapter 13 Trustee
Number of months 3.98 Amount: \$2,191.08
6. Other Allegations
 - a. ☒ Lack of Adequate Protection § 362(d)(1)
 - i. ☐ No insurance
 - ii. ☐ Taxes unpaid Amount _____
 - iii. ☒ Rapidly depreciating asset
 - iv. ☐ Other (describe): _____
 - b. ☒ No Equity and not Necessary for an Effective Reorganization § 362(d)(2)
 - c. ☒ Other "Cause" § 362(d)(1)
 - i. ☐ Bad Faith (describe) _____
 - ii. ☐ Multiple Filings
 - iii. ☒ Other (describe): Failure to pay per the confirmed Plan
 - d. Debtor's Statement of Intention regarding the Collateral
 1. ☐ Reaffirm
 - ii. ☐ Redeem
 - iii. ☐ Surrender
 - iv. ☐ No Statement of Intention Filed

Date: April 28, 2021

/s/ Wesley T. Kozeny
Counsel for Movant

THE ANNUAL PERCENTAGE RATE MAY BE NEGOTIABLE WITH THE DEALER.

NOTICE TO THE BUYER: 1. DO NOT SIGN THIS AGREEMENT BEFORE YOU READ IT OR IF IT CONTAINS ANY BLANK SPACES. 2. YOU ARE ENTITLED TO AN EXPLANATION OF THE AGREEMENT YOU SIGN. 3. UNDER THE LAW YOU HAVE THE RIGHT, AMONG OTHERS, TO PAY IN ADVANCE THE FULL AMOUNT DUE AND UNDER CERTAIN CONDITIONS MAY SIGN A PORTION OF THE FINANCE CHARGE. KEEP THIS CONTRACT TO PROTECT YOUR LEGAL RIGHTS.

THE FOLLOWING STATEMENT APPLIES:

**NO PUBLIC LIABILITY INSURANCE
ISSUED WITH THIS TRANSACTION**

BUYER ACKNOWLEDGES RECEIPT OF A FULLY COMPLETED COPY OF THIS RETAIL INSTALLMENT CONTRACT WITH NO BLANK SPACES.

RETAIL INSTALLMENT CONTRACT

Buyer sign here _____
Address 341 S ALBANY CHICAGO
IL _____ Zip 60629 Phone _____
Seller's Name STAN NISSAN INC
Seller may assign this contract and may receive or receive a portion of the Finance Charge.
By _____ Title _____
By _____ Title _____
By _____ Title _____

I hereby guarantee the collection of the above described amount upon failure of the Seller named herein to collect said amount from the Buyer named herein.

CERTIFICATE OF TITLE OF-A VEHICLE

VEHICLE IDENTIFICATION NO.
1N4AL3AP4GC199691YEAR
2016MAKE
NISSANMODEL
ALTIMABODY STYLE
4 DOOR

TITLE NO.

DATE ISSUED
07/13/16ODOMETER
25
25

CCM

MOBILE HOME SQ. FT.

PURCHASED
06/21/16
NEWTYPE TITLE
ORIGINAL

MAILING ADDRESS

LEGEND(S)

ACTUAL MILEAGE

NISSAN MOTOR ACCEPTANCE CORP
PO BOX 254648
SACRAMENTO CA 95865-4648OWNER(S) NAME AND ADDRESS
MARILYN GORDON
7341 S ALBANY
CHICAGO IL 60629FIRST LIENHOLDER NAME AND ADDRESS
NISSAN MOTOR ACCEPTANCE CORP
PO BOX 254648
SACRAMENTO CA 95865-4648

SECOND LIENHOLDER NAME AND ADDRESS

RELEASE OF LIEN

The Lienholder on the vehicle described in this Certificate does hereby state that the lien is released and discharged.

Firm Name

By

Signature of Authorized Agent

Date

Firm Name

By

Signature of Authorized Agent

Date

NEW LIEN ASSIGNMENT: The information below must be on an application for title and presented to the Secretary of State.

Secured Party:

Address:

Federal and State law requires that you state the mileage in connection with the transfer of ownership. Failure to complete or providing a false statement may result in fines and/or imprisonment.

ASSIGNMENT OF TITLE

The undersigned hereby certifies that the vehicle described in this title has been transferred to the following printed name and address:

I certify to the best of my knowledge that the odometer reading is the actual mileage of the vehicle unless one of the following statements is checked:

- ☐ 1. The mileage stated is in excess of its mechanical limits.
☐ 2. The odometer reading is not the actual mileage.
WARNING-ODOMETER DISCREPANCY.

If this vehicle is one of more than 5 commercial vehicles owned by me, I certify also that the vehicle is not damaged in excess of 33 1/3% of its fair-market value unless this document is accompanied by a salvage application.

ODOMETER READING

NO
TENTHS

Signature(s) of Seller(s)

Printed Name(s) of Seller(s)

I am aware of the above odometer certification made by seller

Signature(s) of Buyer(s)

Printed Name

DATE OF SALE

I, Jesse White, Secretary of State of the State of Illinois, do hereby certify that according to the records on file with my Office, the person or entity named hereon is the owner of the vehicle described hereon, which is subject to the above named liens and encumbrances, if any.
 IN WITNESS WHEREOF, I HAVE AFFIXED MY SIGNATURE AND THE GREAT SEAL OF THE STATE OF ILLINOIS AT SPRINGFIELD

CONTROL NO.

JESSE WHITE, Secretary of State

DO NOT ACCEPT TITLE SHOWING ANY ERASURES, ALTERATIONS OR MUTILATIONS.

MUST BE COMPLETED BY SELLER

DO NOT DETACH UNTIL SOLD
NOTICE OF SALE

SEE INSTRUCTIONS ON REVERSE

NISSAN

2016

1N4AL3AP4GC199691

Vehicle Make

Vehicle Year

Vehicle Identification Number (VIN)

Date

Name of Seller (Current Registered Owner)

Name of Buyer

Complete Address of Seller

Complete Address of Buyer

City

State

ZIP

City

State

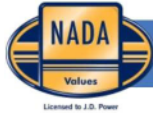
ZIP

Under penalties of perjury, I hereby certify that the foregoing is true and correct under the laws of the United States.

Seller's Signature

Printed Name of Seller

Date



NADA Used Cars/Trucks

National Bankruptcy Services, LLC

14841 Dallas Parkway, Suite 300
Dallas, TX 75254Vehicle Information

Vehicle: 2016 Nissan Altima Sedan 4D SV 2.5L I4
Region: Central
Period: April 26, 2021
VIN: 1N4AL3AP4GC199691
Mileage: 72,500
Base MSRP: \$25,460
Typically Equipped MSRP: \$26,325
Weight: 3,233

NADA Used Cars/Trucks Values

	Base	Mileage Adj.	Option Adj.	Adjusted Value
Monthly				
Trade-In				
Rough	\$9,025	N/A	N/A	\$9,025
Average	\$10,200	N/A	N/A	\$10,200
Clean	\$11,150	N/A	N/A	\$11,150
Clean Loan	\$10,050	N/A	N/A	\$10,050
Clean Retail	\$13,475	N/A	N/A	\$13,475
Weekly				
Auction				
Low	\$7,725	\$18	N/A	\$7,743
Average	\$10,050	\$18	N/A	\$10,068
High	\$12,400	\$18	N/A	\$12,418

*The auction values displayed include typical equipment and adjustments for mileage and any of the following applicable accessories: engine size, drivetrain, and trim.

Selected Options

	Trade-In/Loan	Retail
Aluminum/Alloy Wheels	w/body	w/body
Remote Engine Starter	w/body	w/body